

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**GARY LYNN WILLIAMS
ADC # 73892**

PLAINTIFF

V.

CASE NO. 4:07CV01030-WRW-BD

CHARLES WELLS, *et al.*

DEFENDANTS

RECOMMENDED DISPOSITION

I. Procedure for Filing Objections

The following recommended disposition has been sent to United States District Court Judge William R. Wilson, Jr. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date you receive the Recommended Disposition. A copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

II. Background

On October 12, 2007, Plaintiff Gary Lynn Williams, formerly an Arkansas Department of Correction inmate, filed this case pro se under 42 U.S.C. § 1983 (docket entry #1). Plaintiff also filed an Application to Proceed *In Forma Pauperis* (#4). On November 6, 2007, the Court granted Plaintiff's Application to Proceed *In Forma Pauperis* (#6). The one remaining claim in this case is use of excessive force by Defendant Charles Wells. All other claims have been dismissed by the Court (#23).

On June 18, 2008, mail from the Court to Mr. Williams was returned and marked "paroled" (#27). On July 24, 2008, Defendant Wells filed a Motion to Dismiss and Alternative Motion to Compel stating that Plaintiff had failed to respond to interrogatories; had failed to comply with Local Rule 5.5 of the Rules of the United States District Court for the Eastern District of Arkansas which requires Plaintiff to notify the Clerk of Court and other parties promptly of any change in his address; to monitor the progress of the case; and to prosecute his action diligently.

By Order (#33) of July 28, 2008, Plaintiff was directed to respond to Defendant's Motion to Dismiss and Alternative Motion to Compel within thirty days. The Order was sent to Plaintiff's last-known address. Plaintiff was warned that failure to comply with the Order could result in the dismissal of his case without prejudice. Plaintiff has failed to comply with the Order, and the time for doing so has lapsed.

III. Conclusion

The Court recommends that the District Court GRANT the motion to dismiss (#29) filed by Defendant Wells and dismiss the Amended Complaint (#5) without prejudice, under Local Rule 5.5(c)(2), for failure to comply with the Court's Order of July 28, 2008 (#33).

DATED this 28th day of August, 2008.


UNITED STATES MAGISTRATE JUDGE